FARAD CONTINUATION SHEET NO.:

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE
CRI.APPLICATION NO.1866 OF 2006

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr A.H.M.Ponda, for the applicant.
Mrs M.M.Deshmukh, APP for the respondent.

CORAM: D.B.BHOSALE,J.
DATED: 19.07.2006

P.C.:

Heard Mr Ponda, learned counsel for the applicant and Mrs Deshmukh, learned APP for the parties.

This application is against the order dated 7.4.2006 passed on the application dated 27.4.2005 for substituting the name of the complainant filed by the wife of the original complainant, who died pending the complaint filed by him under section 138 of the Negotiable Instruments Act. The original complainant was a labourer working with the applicant-company, and the questioned cheque was issued in his favour towards his retirement dues. He died on 19.11.2000. The application for substitution was filed on 27.4.2005. It is now well settled that death

of complainant in a complaint under section 138 of Negotiable Instruments Act ipso facto would not lead to termination of criminal proceedings and the Magistrate has power to allow substitution. Mr Ponda, learned counsel for the applicant, submitted that the points raised in paragraph 3 of the petition require consideration and, therefore, prayed for issuance of rule. I perused paragraph 3 of the petition, the impugned order and also other material placed before me. In my opinion, this is not a fit case where the points raised in paragraph 3 can be considered. A poor widow of the deceased-complainant has been substituted for prosecuting the complaint under section 138, filed after the cheque issued towards the retirement dues, came to be dishonoured. In the circumstances, this application is rejected.

(D.B.BHOSALE,J.)